

Military Rehabilitation and Compensation (Consequential and Transitional Provisions)
Amendment (Review Pathway) Regulations 2025

EXPLANATORY STATEMENT

Issued by authority of the Minister for Veterans' Affairs
under the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*

PURPOSE AND OPERATION OF THE INSTRUMENT

The *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004* (MRCA-CTPA) deals with transitional matters in connection with the *Military Rehabilitation and Compensation Act 2004* (MRCA), which commenced on 1 July 2004.

The Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Amendment (Review Pathway) Regulations 2025 (these New Regulations) (Attachment A) amend the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Regulations 2020* to prescribe the travelling expenses for an applicant travelling to obtain relevant documentary medical evidence for a review by the Veterans Review Board (VRB).

The travelling expenses are currently prescribed in the *Veterans' Entitlements Regulations 1986* under subsection 170(B)(1) of the *Veterans' Entitlements Act 1986* (VEA), which says—

If an applicant has had to travel to obtain any relevant documentary medical evidence submitted to the Board, the applicant is, subject to this section, entitled to be paid in relation to that travel the travelling expenses that are prescribed.

Subsection 170B(1) will be repealed by the *Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025* (the Simplification Act) 60 days after the Act receives Royal Assent. The Simplification Act will also insert a new subsection 353P(1) into the MRCA, which is substantially similar to subsection 170B(1) of the VEA. At the same time, the Act will insert a new section 38 into the MRCA-CTPA. The new section 38 will preserve the effect of various instruments relating to VRB matters made under the VEA and continue them under the new framework established by the Simplification Act.

However, due to an inadvertent drafting omission, section 38 will not deal with paragraph 170B(1). These New Regulations address the inadvertent omission by continuing the travelling expenses prescribed under subsection 170B(1) of the VEA as if they were made under the new subsection 353P(1) of the MRCA.

These New Regulations commence on the later of the following days:

- (a) the day after the Regulations are registered on the Federal Register of Legislation;
- (b) the day subsection 170B(1) of the VEA is repealed.

CONSULTATION

No external consultation was considered necessary, as the New Regulations mirror the transitional arrangements that will be set out in section 38 of the MRCA-CTPA for VRB-related legislative instruments. The Regulations ensure a beneficial outcome by including the payment of travel expenses by a VRB review applicant to obtain relevant documentary medical evidence, thus maintaining consistency with the original intent of the provision.

In these circumstances, it is considered that the requirements of section 17 of the *Legislation Act 2003* have been fulfilled.

REGULATION IMPACT STATEMENT

The Office of Impact Analysis (OIA) was consulted regarding this instrument. OIA indicated the New Regulations are unlikely to have more than a minor regulatory impact.

The OIA advised that a Regulatory Impact Statement is not required as the Regulations provide for transitional arrangements that are part of the implementation of Veterans' Compensation and Rehabilitation Legislation Reform for which an Impact Analysis has already been completed (see OIA24-08786).

Approved by
Minister for Veterans' Affairs
Rule-maker

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

The Regulations are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Regulations

The purpose of the proposed Regulations is to allow for the continuance of the instrument made under subsection 170B(1) of the *Veterans' Entitlements Act 1986* (VEA), as regulations made under subsection 353P(1) of the *Military Rehabilitation and Compensation 2004* (MRCA). This relates to travel expenses for applicants obtaining medical evidence for the purposes of a VRB review.

Human rights implications

The Regulations engage the following rights:

- the right to social security under Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and
- the right to an independent, impartial and competent court or tribunal, under article 14(1) of the International Covenant on Civil and Political Rights (ICCPR).

The right to social security

Article 9 of the ICESCR provides for the right of everyone to social security, including social insurance. Military compensation is analogous to social insurance in that it provides payment of wages and medical costs in respect of injuries, diseases or death occurring as a result of service.

The Regulations maintain the prescribed arrangements for travel expenses associated with obtaining medical evidence for a VRB review of a person's compensation entitlements. The existing prescribed arrangements set out the conditions an eligible person must satisfy to be paid travel expenses.

The right to an independent, impartial and competent court or tribunal

The Regulations promote the right to an independent, impartial and competent court or tribunal, by promoting access to the VRB and continuing the existing authority relating to the payment of travel expenses for a review applicant to obtain relevant medical evidence.

Conclusion

The Regulations are compatible with human rights. The provisions in the Regulations promote the right to social security and the right to an independent, impartial and competent court or tribunal, as they ensure the travel expenses and conditions for travel entitlements as prescribed in the VEA continue to apply under the corresponding provisions of the MRCA.

Prepared by

Minister for Veterans' Affairs

Rule-maker

NOTES ON SECTIONS

Section 1 – Name

Section 1 provides that the title of the instrument is the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Amendment (Review Pathway) Regulations 2025*.

Section 2 – Commencement

Section 2 provides that the instrument is to commence on the day after it is registered on the Federal Register of Legislation or the day Part 1 of Schedule 3 of the Simplification Act (which includes section 95 of the Act) commences. Section 95 of the Act will repeal Division 8 of Part IX of the VEA (which contains subsection 170B(1)) 60 days after the Act receives Royal Assent.

Section 3 – Authority

Section 3 provides that the instrument is made under the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004* (MRCA-CTPA).

This instrument is made after the new section 39 of the MRCA-CTPA is enacted but before it commences. Therefore, the instrument is made under section 4 of the *Acts Interpretation Act 1901*.

Section 4 – Schedules

Section 4 provides that each instrument that is specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

This is a standard provision giving effect to all schedules to the instrument. Schedule 1 amends the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Regulations 2020* (CTP Regulations).

Schedule 1 – Amendments

Item 1 – Part 1 (heading)

Item 1 inserts the new heading “Part 1– Preliminary” before section 1, as a navigation aid. This amendment is consequential to splitting the existing CTP Regulations into parts to facilitate the creation of the new Part 3.

Item 2 – Part 1

Item 2 adds “Simplification Act” at paragraph (c) at the end of note 1 under section 5, which contains definitions relevant to the regulations. Note 1 lists the definitions used in the Regulations which have the same meaning as they have in the *Military Rehabilitation and Compensation Act 2004* (MRCA).

Item 3 – Part 2 (heading)

Item 3 inserts a new heading, “Part 2 – Matters arising out of the enactment of the MRCA” before section 6, to assist readers to identify the arrangements that are prescribed in connection with the MRCA, when it commenced in 2004. This amendment is consequential to splitting the existing CTP Regulations into parts to facilitate the creation of the new Part 3.

Item 4 – Part 3 (heading), Continued effect of certain instruments

Item 4 inserts after section 7, a new heading for “Part 3—Matters arising out of the enactment of Schedule 3 to the Simplification Act” to divide up the CTP Regulations into parts, with new Part 3 to contain provisions that are relevant to Schedule 3 of the Simplification Act.

New section 8 refers to the continued effect of certain instruments.

Subsection 8(1) sets out that an instrument made under subsection 170B(1) of the old VEA that is in force immediately prior to the commencement of the review pathway, will continue to have effect as

though it were made under subsection 353P(1) of the MRCA after the review pathway commencement day.

Subsection 8(2) provides that the terms “old VEA” and “review pathway commencement day” are as defined in section 25 of the MRCA-CTPA.

This section mirrors the ‘continued effect’ of similar instruments set out in the new section 38 of the MRCA-CTPA, as inserted by the Simplification Act, to facilitate the payment of an applicant’s travel expenses associated with obtaining medical evidence for a VRB review.